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Diversity and Citizen Participation: The Effect of Race on Juror Decision Making

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Abstract:

Juries rarely receive attention in public administration despite the explicitly "public" nature of their function and the determinative nature of their decision making. Applying the theoretical construct of public participation to jury decision making, we find that Black defendants are less likely to be convicted by juries composed of a higher percentage of Black jurors and are more likely to be convicted by juries composed of a higher percentage of White and Hispanic jurors. Thus, analysis of public participation must account for the relative inclusivity and diversity of participants as this will likely affect the output of the process. In short, diversity matters in public participation.

The one place where a man ought to get a square deal is in a courtroom, be he any color of the rainbow, but people have a way of carrying their resentments right into a jury box.

Harper Lee, 1960, p. 233

Juries rarely receive attention in public administration despite the explicitly "public" nature of their function and the determinative nature of their decision making. Indeed, juries could be considered a fully realized manifestation of public participation, and thereby an entirely appropriate candidate for study from a public administration perspective. As such, this research makes the conceptual argument that juries ought to be included in the prevailing public participation paradigm. Furthermore, this study provides an empirical examination of actual juries to assess whether juror diversity has an effect on votes to convict. We find that Black defendants are less likely to be convicted by juries composed of a higher percentage of Black jurors and are more likely to be convicted by juries composed of a higher percentage of White and/or Hispanic jurors. Thus, discussions of public participation ought to move away from a generic discussion of "the public" and make careful consideration of which members of the public are, and are not, participating as this may affect the output of the deliberation.

Public Participation

Calls for increased citizen involvement in governmental decision-making and policy implementation processes permeate the public administration literature (Creighton, 2005; Holmes, 2010; Innes & Booher, 2004; Kathlene & Martin, 1991; King, Feltey, & Susel, 1998; Roberts, 2008; Stewart, 2007). As demonstrated by a recent symposium,[1] however, there is considerable range and variation in what is meant by "public participation" in terms of intent, process, participants, and results (Stout, 2010). Although hardly definitive, the definition of citizen participation offered by Roberts (2008) suffices: "the process by which members of a society (those not holding office or administrative positions in government) share power with public officials in making substantive decisions and in taking actions related to the community" (p. 7). The key is that citizens are "personally involved and actively engaged" as opposed to having elected surrogates represent citizens' interests in decision making (p. 7).

The dominant theme in the extant literature is that more public participation in public administration is better (Stewart, 2007). This normative sentiment is typified by Thomas (1995): "More often than seeing problems from too much public involvement, I have seen how the wrong public decisions were made or how the right public decisions failed as a consequence of too little public involvement" (p. xiii). Conversely, Walters, Aydelotte, and Miller (2000) contend that "people who serve full time in government positions, whether elected or appointed" are best positioned to make the kinds of policy decisions that are increasingly "complex and highly technical" in nature (p. 357). Finally, a small, but robust, body of research avoids the normative discussion altogether by accepting that citizen participation mechanisms exist and focuses on making them "better explained and understood" (Stewart, 2007, p. 1069).

A critical caveat is in order, even for the most ardent advocates of enhanced opportunities for deliberative democracy. Arguments for the involvement of the public in governmental and bureaucratic processes typically envision it as a compliment to political representation and administrative expertise, not as a replacement or alternative (Fung, 2006). This notion is well articulated by Brainard and McNutt (2010):

> Public administrators create opportunities to engage with citizens and use those opportunities to educate, organize, and activate citizens to advocate and participate in the larger public sphere on their own behalf. It also means that public administrators would engage with citizens to collaboratively identify and define problems and create and implement solutions to those problems. A part of this, governmentcitizen relations would become more deliberative and dialogic rather than regulative and based on authority. (p. 841-842)

For this model of administrator–citizen "coproduction" (Bovaird, 2007) to manifest successfully, Yang (2006) argued that administrators must have the requisite degree of trust in the participating citizens, the implicated institutions, and a latent propensity to trust others.

Another essential consideration is the type of participative mechanism. In her foundational analysis, Arnstein (1969) identified the following eight conceptions of citizen participation: manipulation, therapy, informing, consultation, placation, partnership, delegated power, and citizen control. Most of these mechanisms for participation are described as being a "substitute for genuine participation" or constituting an attitude of "tokenism" that perpetuates the power position of governmental actors at the expense of citizens (Arnstein, 1969, p. 217). Only at the extreme does authentic delegation of authority occur, with the rarest of circumstances resulting in the ceding of control over participation, management, and negotiation to citizens. On reviewing 26 distinct mechanisms for citizen participation, Stewart (2007) compressed Arnstein's model into

three general categories. Informative exercises position citizens at the receiving end of policy decisions made by state officials. Citizens provide input during "consultative" opportunities, but the final decision is made by state officials. Only in delegative mechanisms are citizens authorized to make complete, but not final, decisions, as government officials also participate. Although Stewart does not make such an assertion, it is clear from the prevailing literature that informative exercises are normatively insufficient, that consultative opportunities are perhaps the most familiar type of citizen participation in both practice and academic discussion, and that delegative mechanisms are rare.

In short, public participation in public administration is conceived as a critical element in decision making and implementation, but it is rarely determinative in its own right. One mechanism that notably reflects the promise of the delegative approach may be the so-called citizen jury (Bingham, Nabatchi, & O'Leary, 2005; Callanan, 2005; Crosby, Kelly, & Schafer, 1986). As detailed by Smith and Wales (2000), "a citizens' jury brings together a group of randomly chosen citizens to deliberate on a particular issue, whether it is the setting of a policy agenda or the choice of particular policy options" (p. 55). Under the guidance of a trained moderator, jury members analyze evidence presented by witnesses and produce a report detailing their findings and recommendations. Thus, the citizen jury can "serve as a proxy for the public at-large" as it is assumed that its conclusion reflects that which would have been reached if the community itself were to have deliberated (Roberts, 2008, p. 297). Although similarities to juries in the legal system are apparent, the citizens' jury model has not been widely adopted or produced significant, direct influence on the political decision-making process (Smith & Wales, 2000).

Nevertheless, the citizen jury approach explicitly demands that a demographically representative body be drawn from the community (Roberts, 2008). Other than the Model Cities program, it is rare for discussions of citizen participation to formally incorporate considerations of the diversity of the citizen participants. Although there is evidence that the preferences of participants and nonparticipants may not differ significantly, John (2009) observed that "many believe there is a link between the inequality in participation and . . . outputs and outcomes" and that "a degree of equality in political participation is symbolically important for a legitimate political system" (p. 495).

Thus, Fung (2006) asserts that legitimacy, justice, and effective governance are key considerations in the evaluation of public participation mechanisms in a democracy. Accordingly, "*(r)andomly selecting* participants from among the general population is the best guarantee of descriptive representativeness" (pp. 67-68, italics in original). Furthermore, Fung suggests that the "deliberative ideal" is approximated in settings where "participants engage with one another directly as equals who reason together about public problems" (p. 68). Finally, the ideal for enhancing political equality and justice may be achieved when citizen participants are empowered to exercise "direct authority" over a public decision (pp. 69, 72).

Having considered the extant literature on citizen participation, we make a conceptual argument and perform an empirical examination in this study. First, we posit that juries in the criminal justice system represent a type of participation mechanism that has both been overlooked by scholars in public administration and one that ought to belong in the prevailing paradigm as an all-to-rare example of a delegative mechanism of participation. Notably, juries are not among the 26 mechanisms of citizen participation identified by Stewart (2007). Second, we examine whether the racial makeup of a jury affects its decision making.

Juries in the Legal System

Although an underappreciated topic in public administration scholarship, juries in criminal cases constitute a compelling example of citizen participation in public decision making and embody

the rare characteristic of citizens being the determining actors. The right to a trial by an impartial jury is most obviously established in Article III and Amendment XI to the U.S. Constitution.[2] The standard jury has 12 jurors, and they are usually required to reach a unanimous decision to be deemed successful. This "exciting experiment in the conduct of serious human affairs" is not without controversy, but the intention of the jury model is noble indeed (Kalven & Zeisel, 1966, p. 4).

Ideally, juries constitute an impartial, representative cross-section of the community and protect the accused from abuses of the state's superior resources and expansive powers. Jury members are first selected randomly from a master list drawn primarily from registered voters, but lists of telephone numbers, utility customers, and licensed drivers are also used (Neubauer, 2008).[3] Procedurally, juries are intended to establish a nonhierarchical structure where each member's voice and vote is equal in prominence and essential for successful deliberation and decision making.

This manifestation of this ideal, however, hinges partly on the representativeness of the jury. Thus, the second stage of jury selection is the process of whittling down the randomly selected pool to a 12-person jury. The outcome of this process sets the stage for the trial to come. Indeed, "many lawyers believe that trials are won or lost on the basis of which jurors are selected" (Neubauer, 2008, pp. 295-296). Attorneys for both the prosecution and defense are empowered to protest the pool itself on the grounds that it is not representative of the community. Potential jurors can also be excluded from the pool during the "voir dire" process when two types of challenges can be levied regarding a potential juror. Challenges for cause are based on the argument that a particular individual would not be a fair or impartial juror; these reasons are legally prescribed under state law and must be stated to the court (Schmalleger, 2005).

The more controversial technique, the peremptory challenge, is an explicit strategy to shape jury composition and reflects the reality that neither side really wants jurors who are open-mined and objective (Barkan & Bryjak, 2004). Attorneys for both the prosecution and defense use a limited number of peremptory challenges to seek jurors predisposed to their side and eliminate potential jurors who may be desirable to the opposition. Traditionally, potential jurors could be excluded by one of the attorneys for any reason, and these do not need to be stated in court. The so-called *Batson* rule (from the U.S. Supreme Court case *Batson v. Kentucky*, 1986), however, prevents exclusion solely on the basis of the race of the potential juror. The decision was based, in part, on a desire to increase the public's confidence in the integrity and fairness of the nation's court systems (Dougherty, Beck, & Bradbury, 2003). A subsequent U.S. Supreme Court decision, *J.E.B. v. Alabama* (1994), extended the prohibition to cover gender-based exclusions. Such prohibitions serve to curb explicitly race-based and gender-based preemptory challenges, but the practice certainly persists in a more nuanced manner.

Juror Bias

The implicit motivation behind strategic efforts to shape jury composition by race, gender, or any other demographic characteristic is the belief that the decision making of jurors is partly a function of such latent characteristics. Reminiscent of the logical underpinnings of the theory of representative bureaucracy in public administration, demographically based peremptory challenges assume that the life experiences of a juror will affect their assessments of evidence, witnesses, and the accused, and that these experiences are often a function of race, gender, age, social class, and the like (Barkan & Bryjak, 2004). An early attempt to assess the extent to which "extra-legal" factors influence decision making found that jurors who voted to convict were not significantly different from jurors who vote to acquit in terms

of gender, race, age, and education (Mills & Bohannon, 1980). Subsequent research suggested that such factors may play a role when the prosecution's case is relatively weak (Reskin & Visher, 1986). In a widely cited review of previous studies, Ford (1986) concluded that the evidence is unclear as to whether social and demographic factors influence juror behavior. Nevertheless, public opinion in the wake of high-profile cases, such as the first criminal trial of O. J. Simpson, indicates a persistent belief that the race of the accused in relation to the race of jurors may affect the jury's disposition (Coleman, 1996).

Such a relationship suggests that an in-group/out-group bias may occur as jurors make individual and collective determinations regarding the accused (M. R. Williams & Burek, 2008). In-group bias may occur when shared demographic characteristics between the accused and jurors lead the latter to regard the former more favorably than a similarly situated defendant who does not share the characteristic. For example, Bowers, Sandys, and Brewer (2004) found that, for Black defendants,

> African-American male jurors were significantly more likely than others to imagine themselves in the situation of the defendant's family, to imagine themselves as a member of the defendant's family, to be reminded of someone by the defendant, and less likely than others to see the defendant's family as different from their own. (pp. 1531-1532)

Out-group bias operates in an analogous fashion as jurors may be less sympathetic or empathetic toward the defense when the juror does not share foundational characteristics with the accused. In this manner, society's interests are perhaps better served when a jury reflects the demographics of the community rather than allowing for an all-Black jury for Black defendants, for example, notwithstanding the probable preferences of such a defendant to have jurors who have shared experiences and demographics (Golash, 1992).

Evidence of the performance of Black jurors in actual trials, as opposed to the more prevalent but circumspect research of mock juries,[4] is rare because most jury-eligible cases are resolved through an intervening mechanism such as plea bargaining (Neubauer, 2008). The difficulty in studying Black jurors is compounded by various historic barriers to the service of Blacks on juries and that there are small pools of potential Black jurors in some communities (Fukurai, Butler, & Krooth, 1993). Nonetheless, Bowers et al. (2004) examined 353 capital sentencing trials where the defendant was Black and the victim was White. They found that mixed-race juries were more likely to air conflict during deliberations, the potential relevance of mitigating circumstances was more likely to be discussed, and all jurors were more likely to "acknowledge how race colors their perspectives and how the race of other jurors may do likewise" (Bowers et al., p. 1532). Turning from the process of jury deliberation to verdicts and sentencing, Wishman (1986) argued that Black jurors are less likely to convict Black defendants because of a "feeling of brotherhood" (p. 116). Similarly, Fleury- Steiner (2002) reported that, on a jury with 11 Whites, the 1 Black woman was the only juror who did not initially vote to impose a death sentence, although she ultimately joined in an affirmative vote.

M. R. Williams and Burek (2008) performed the most inclusive examination of the effects that juror race has on the convictions of Black defendants. Using actual jury trial data from multiple jurisdictions and different types of crimes, they found that juries with a higher percentage of White jurors were more likely to convict Black defendants, even when controlling for the strength of the prosecutor's case (see Reskin & Visher, 1986). These results suggest that out-group bias may be more likely to affect outcomes as a jury's demographics approach homogeneity, and especially a jury of all White members.

Juries as Public Participation

The definition of citizen participation offered by Roberts (2008) requires a process wherein members of society directly participate in the making of substantive decisions; juries in the criminal justice system clearly embody these notions. The omission of juries from inventories of public participation mechanisms (see Stewart, 2007) is an oversight that ought to be rectified so that juries can be examined empirically in accordance with values integral to the public administration tradition. Notably, the jury model fares well on the key considerations of legitimacy, justice, and effective governance (Fung, 2006). Notably, the random selection of the jury pool from among the general population represents "the best guarantee of descriptive representativeness" (pp. 67-68). Furthermore, juries are typified by a nonhierarchical structure where each member's voice and vote are equal in prominence and essential for successful deliberation and decision making, thereby approximating the "deliberative ideal" (p. 68). Considering that juries are empowered to exercise "direct authority" over a public decision (p. 69), the combined effects of these characteristics place the jury model near the ideal for enhancing political equality and justice (p. 72).

Such a laudatory assessment is tempered, however, by the second stage of jury selection where the demographic characteristics of potential jurors can be considered in determining the actual composition of the jury. Thus, the jury that is ultimately seated often does not represent the community in a descriptive sense. Instead, juror selection reflects strategic choices made by both parties in the case regarding the predisposition of jurors toward the accused. Consistent with the logical underpinnings of the theory of representative bureaucracy (see Bradbury & Kellough, 2011), it is presumed that Black jurors, for example, will be more inclined to be sympathetic toward Black defendants than will While jurors. Having made the case that juries ought to be part of the public participation paradigm, we turn to an empirical examination of whether diversity in jury composition is indeed related to decision making and outcomes.

Hypotheses

Two hypotheses are clearly derived from the prevailing literature on juries. We expect to find jurors of the same race or ethnicity as the defendant to be more likely to vote to acquit, whereas jurors of a different race or ethnicity will be more likely to vote to convict.

> *Hypothesis 1*: Black defendants will be more likely to be convicted by juries composed of a higher number of White jurors
> *Hypothesis 2*: Black defendants will be more likely to be convicted by juries composed of a higher number of Hispanic jurors.

The second hypothesis is notable as it examines the extent to which members of minority groups may, or may not, advocate for each other; the evidence is scant within the public administration literature on such intergroup dynamics.[5] Most of the available evidence tests for competition for jobs but does not reveal a dominant pattern on the question of whether gains made by one group are made at the expense of other groups (see Selden, 1997). In a recent examination of discrimination in U.S. public school districts, Rocha and Hawes (2009) found that minority teachers lower the levels of disproportionate academic grouping and discipline for all minority students, not merely coethnics.

Turning to Hispanics more directly, the Criminal Justice literature, itself, is sparse with regard to decisions of Hispanic jurors. One of the reasons for this is Hispanics have historically been excluded from jury service due to statutory requirements of citizenship and/or using English as a

first language (see Enriquez & Clark, 2007). As a result, studies that do exist tend to focus on mock juries that are able to manipulate the percentage of Hispanic jurors who serve. In addition, these studies tend to focus on relationships between White or Hispanic jurors and White or Hispanic defendants, leaving Blacks out of the equation altogether (see Daudistel, Hosch, Holmes, & Graves, 1999; Perez, Hosch, Ponder, & Trejo, 1993). One exception is a study by Abwender and Hough (2001), who found that, in their mock jury experiment featuring vignettes of a vehicular homicide case, Hispanic jurors tend to show more leniency toward White defendants compared with Black defendants. The authors attribute this to the possibility that Hispanics perceived the White defendant as "more of an in-group member" (Abwender & Hough, 2001, p. 612). Although the use of a mock jury makes it difficult to assess the generalizability of such a finding, the paucity of extant research leads us to rely on Abwender and Hough as the basis for the second hypothesis that Hispanic jurors will be more likely to convict a Black defendant than will Black jurors.

Method

The data for the current study were collected by Hannford-Agor, Hans, Mott, and Munsterman (2001) for their examination of hung jury verdicts in noncapital felony cases in Maricopa County, Arizona; Los Angeles, California; Bronx, New York; and Washington, D.C. The authors collected data for trials held in 2000 and 2001 in an attempt to compare juries that convicted defendants with juries that deadlocked; data collected included type of charge, sentence, jury decision, demographic characteristics of defendants and victims, jury selection, trial evidence and procedures, and jury deliberations. The researchers also distributed surveys to judges, attorneys, and jurors, but this information is not used in the present study (see Eisenberg et al., 2005).

What is compelling and rare about the data is that it represents characteristics of actual jury trials, as opposed to mock juries. The artificiality of mock juries does not lend itself to adequate generalizability; actual jury trials provide a better illustration of the diversity and unique complexity of jury service and decision making (see Bornstein & McCabe, 2005; Costabile & Klein, 2005). However, the rarity of data from actual jury trials triggers concerns over the representativeness of the resulting analysis. For this study, we do not suppose predictability but rather assert that juries should be part of the public participation typology in public administration and that the racial makeup of juries can affect their decision making. Analysis of data from other actual jury trials may support or counter our findings on juror diversity; we welcome such analysis as it would constitute, by definition, a strengthening of our core argument regarding the relevance of juries to the public participation literature in public administration.

For our study, only Black defendants were examined, as they comprised approximately 60% of all defendants across the jurisdictions. Whites (10%) and Hispanics (24%) represented a smaller number of defendants, which made examination of any meaningful relationships suspect.

A logistic regression model is used to examine the effects of the percentage of Blacks, White, and Hispanics on the jury on the likelihood of conviction of Black defendants (see M. R. Williams & Burek, 2008). However, such models need to account for contextual factors that may influence a juror to look past the race of the defendant, for example, and act in a neutral, unbiased manner. As Stewart (2007) asserted, "institutions matter and . . . the rules by which decisions are made affect decision-making process outcomes" (p. 1070). Thus, variables measuring the quantity of evidence, strength of the prosecutor's case, the length of the trial, the length of jury deliberations, and the presence of written instructions are included in the model.\

Dependent Variable
The dependent variable was whether or not a trial resulted in a conviction; thus, *conviction* was coded as 0 = no, 1 = *yes*. This variable takes into account the very real possibility that defendants will be convicted on only some (or one) of the charges brought to trial and/or the likelihood of being convicted of lesser charges. Therefore, a conviction on *any* charge is coded as a conviction. Acquittals and hung juries were coded as "no." See Table 1 for descriptive statistics for all variables.

Independent Variables
The primary variable of interest was the racial makeup of the jury. *Percent Black, percent White*, and *percent Hispanic* were each coded to examine the percentage of the respective groups serving on the jury. One model was constructed, which included *percent White* and *percent Hispanic* as dummy variables, with *percent Black* as the reference category. Each of these is based on previous research, which concluded that the racial makeup of the jury, combined with the race of the defendant, has an effect on case outcomes (see Abwender & Hough, 2001; Perez et al., 1993; M. R. Williams & Burek, 2008).

Control Variables
As mentioned, five independent variables collectively assess the decisionmaking context of serving on a jury and are expected to confound the negative relationship between Black defendants being convicted and the percentage of Black jury members. Kalven and Zeisel (1966) argued that a conviction is more likely when the prosecutor's case is relatively strong. Similarly, Harmon and Lofquist (2005) stated that a higher quantity of evidence presented by the prosecutor can sway a jury toward conviction. Thus, two variables were used to measure the strength of the prosecutor's case. *Quantity of evidence* measured the number of exhibits and witnesses that the prosecutor presented during the trial, and *strength of case* was an assessment of each jury member's view of the prosecutor's and defense's case, ranging from *consistently weak* (coded as 1) to *consistently strong* (coded as 7). Each juror's response in each trial was calculated to provide a mean indicator of the strength of the prosecutor's case compared with the defense's case. This was converted into a ratio where "above one" indicated that jurors felt the prosecutor's case was stronger than the defense's case and "below one" indicated that jurors felt the prosecutor's case was weaker than the defense's case. We hypothesize that the greater a quantity of evidence and a strong prosecutor's case will increase the likelihood of conviction irrespective of jury composition.

Two variables measure the duration of the jury experience: *length of trial* and *length of deliberations*. We hypothesize that longer trial and deliberation experiences immerse jurors in the case and will counteract a possible in-group bias for Black jurors in particular.

The last variable that assesses the decision-making context, *written instructions*, was included because it represents the issuance of a written reminder from the judge to the jury of their role and responsibilities. Thus, the presence of such instructions should confound the effect that shared demographics may have on the disposition of Black jurors in particular.

Table 1. Variables in the Analyses.

Strength of prosecution's case (ratio of prosecution's case relative to defense's case)
M = 1.52 Median = 1.39 Minimum = 0.33 Maximum = 6.00 *SD* = 0.89
Quantity of evidence in prosecution's case (number of witnesses and exhibits)
M = 19.82 Median = 12.00 Minimum = 0.00 Maximum = 235 *SD* = 25.74
Case type
Violent
No = 0 (50%)
Yes = 1 (50%)
Property
No = 0 (88%)
Yes = 1 (12%)
Drug
No = 0 (71%)
Yes = 1 (29%)
Attorney type
Appointed = 0 (83%)
Retained = 1 (17%)
Written instructions
No = 0 (39%)
Yes = 1 (61%)
Length of trial (days)
M = 4.41 Median = 3.00 Minimum = 1.00 Maximum = 24.00 *SD* = 3.24
Length of deliberations (hours)
M = 5.55 Median = 3.50 Minimum = 1.00 Maximum = 40.00 *SD* = 6.16
Conviction
No = 0 (62%)
Yes = 1 (38%)
Percentage Black
M = 26.73 Median = 20.00 Minimum = 0.00 Maximum = 100.00 *SD* = 25.60
Percentage White
M = 45.68 Median = 41.70 Minimum = 0.00 Maximum = 100.00 *SD* = 19.11
Percentage Hispanic
M = 21.72 Median = 16.70 Minimum = 0.00 Maximum = 100.00 *SD* = 27.20
Total *N* = 146

The final two control variables account for two standard characteristics of criminal trials. *Case type* covers whether the defendant was charged with a violent crime (0 = *no*, 1 = *yes*) or a property crime (0 = *no*, 1 = *yes*). Violent crimes and property crimes were used as dummy variables in the model, while drug crimes are the reference category for this variable. The reasons for using drug crimes as the reference category are that drug crimes are responsible for the largest growth in prison populations since the 1980s, when compared with other types of crimes, and that has resulted in the unprecedented adjudication of Black defendants in the criminal justice system (see Chen, 2008; Crawford, Chiricos, & Kleck, 1998; Spohn & Cederblom, 1991). Thus, it is necessary to compare violent and property offenses with drug crimes to assess any effect that drug crimes may have on conviction. Last, *attorney type* was assessed for its potential effect on conviction. It has been argued that certain defense attorneys (i.e., public defenders or assigned counsel) do not perform as well as privately retained

attorneys (see Uphoff, 2006). Thus, the use of a private attorney should be negatively correlated with conviction rate.

Results

Table 2 provides the logistic regression analysis featuring the *percent White* and *percent Hispanic* dummy variables and the other independent variables of interest. As hypothesized, juries comprising a higher percentage of White jurors are more likely to convict Black defendants (odds ratio = 1.022, $p < .01$) than juries comprising a higher percentage of Black jurors (the reference category). The percentage of Hispanics on the jury was also significant, but at a higher alpha level. Juries comprising a higher percentage of Hispanic jurors are more likely to convict Black defendants (odds ratio = 1.019, $p < .10$). This finding, again, was only significant at a higher alpha level, so support for the hypothesis is marginal. Although the odds ratios themselves are only slightly larger than 1, the significance of these variables points to the conclusion that there is, indeed, a slightly higher likelihood of conviction of Black defendants by these juries.

Table 2. Logistic Regression Analysis for Conviction.

	B	*SE*	Odds ratio
Strength of case	−0.031	.229	0.970
Quantity of evidence	−0.002	.012	0.998
Case type			
Violent	−0.929	.403	0.395**
Property	−1.081	.677	0.339*
Attorney type	0.414	.531	1.512
Written instructions	−0.380	.434	0.684
Length of trial	0.069	.084	1.072
Length of deliberations	−0.038	.040	0.962
Percentage White	0.022	.008	1.022***
Percentage Hispanic	0.019	.012	1.019*

Note: −2 log likelihood = 171.694. Nagelkerke $R^2 = .17$. $N = 146$.
*$p < .10$. **$p < .05$. ***$p < .01$.

Among the other variables, juries were less likely to convict Black defendants of violent crimes when compared with drug crimes (odds ratio = 0.395). Juries were also less likely to convict Black defendants of property crimes when compared with drug crimes (odds ratio = 0.339), though this is only marginally significant at the .10 alpha level. The odds ratios for these variables are quite low, which indicates a strong correlation with the dependent variable. Importantly, none of the variables that approximate decision making context were significant.

These results support M. R. Williams and Burek (2008) by finding that juries with a higher percentage of White jurors are more likely to convict Black defendants. Also, the percentage of Hispanic jurors on a jury also has an effect on the conviction of Black defendants, though at a lower alpha level. Due to the lack of previous research on Hispanic jurors, the results focusing on these jurors should be seen as exploratory. Indeed, few empirical studies have

examined jury convictions with regard to race of defendant and case type; in fact, most studies tend to focus on sentencing decisions by judges. Thus, this analysis supports the hypothesized link for Black jury members and Black defendants, holding constant the decision-making context of the jury's deliberations.

Conclusion

The findings with regard to jury composition and convictions of Black defendants make a valuable contribution to the literatures of both criminal justice and public administration. For the former, the consistent pattern of Black defendants being more likely to be convicted of drug crimes than for violent crimes, regardless of jury composition by race, combines two previously disparate streams of research. From a practical perspective, if the criminal justice system is generally tougher on Blacks charged with drug-related offenses than for violent crimes, then our findings would seem to support a defense strategy of seeking a jury trial for those charged with violent offenses. Of course, our findings also suggest that attorneys for Black defendants can increase the odds of an acquittal by seeking out Black jurors. While such a finding may not be revelatory to criminal defense attorneys, our study provides rigorous empirical support for the continued relevance of race in criminal proceedings.

Equally notable are the implications of the findings for discussions of public participation found in public administration. We make the conceptual assertion that juries ought to be included in that literature's typologies and analyses. Juries are the rare type of public participation where the citizens are the determining actors of a discrete public policy decision, and thus the dynamics of jury behavior are particularly relevant. Second, our findings reinforce the proposition that precisely who from the public writ large is included in a given public participation opportunity may affect the output of that deliberation. In our study, Black jurors are less likely to convict Black defendants than are White jurors, with the effect of Hispanic jurors being interesting but exploratory in nature.

Overall, discussions of public participation ought to move away from a generic discussion of "the public" and make careful consideration of which members of the public are, and are not, participating, as this may influence the deliberative process and/or result. Because our data are not likely to be representative of "average" jury trials, further discussions of the effect that diversity has on public participation are urged. We hope that our conceptual argument and empirical analysis trigger new avenues of exploration into the all-important topics of citizen participation in the affairs of the community and the effects that diversity may have on such participation.

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Notes

1. See *Public Administration and Management*, Vol. 15, No. 1, 2010.
2. Text of Article III: The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed. Amendment XI: In all criminal

prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

3. Of course, some otherwise eligible members of society are excluded from jury service, notably convicted felons.
4. Due to the practitioner orientation of the field of public administration, we have focused our literature review of juries to include only those studies that examine actual juries as they behave in reality as opposed to the studies of mock juries.
5. Notably, there is little mention of interracial issues in high-profile reviews of the extant literature on diversity (see Guy & Schumacher 2009; Meier, 1993; Pitts & Wise, 2010; K. Williams & O'Reilly, 1998; Wise & Tschirhart, 2000).

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